

REMARKS

Claims 1-9 are pending in the present application. Applicants amended claims 1 and 2 to clarify the invention. Applicants refer to Figs. 5 and 6, and page 7, line 15 to page 10, line 2 of the specification for exemplary embodiments and support for the claim amendments. No new matter has been added.

Claims 1-2 and 7-9 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,658,473 to Block et al. in view of U.S. Patent No. 6,401,121 to Yoshida et al. Applicants amended independent claims 1 and 2 in a good faith effort to clarify the claimed invention as distinguished from the cited prior art references. The Examiner's rejection is respectfully traversed.

Amended claims 1 and 2 recite, in part, the following,

"storing[/stores] a weight value of distribution and an accumulated value calculated on the basis of said weight value according to actual distribution for every transmission destination; and transmitting[/transmits] the received packets, upon occurrence of a distribution event, to a transmission destination that has a smallest accumulated value." (Emphasis added)

The Examiner relied upon a probabilistic weight described in Block et al. as disclosure of the claimed "weight value" and a server capacity and load described in Block et al. as disclosure of the claimed "accumulated value." The Examiner acknowledged that Block et al. do not disclose transmitting to a destination that has a smallest accumulated value, and relied upon Yoshida et al. as a combining reference to teach this feature. (Page 2, lines 14-19 of the Office Action) Specifically, the Examiner relied upon the description of a load distribution system of

selecting a server with the smallest transmitted data set count in col. 2, lines 6-17 of Yoshida et al. to describe the claimed feature of "smallest accumulated value."

Applicants respectfully submit that it would not be obvious to one skilled in the art to combine the references in the manner proposed by the Examiner because the cited features of Block et al. and Yoshida et al. are incompatible with each other, and Block et al. explicitly teaches away from the proposed combination. Applicants further submit that even assuming, arguendo, that it would be obvious to combine the references, the combination would still fail to teach or suggest the claimed invention as recited in claims 1 and 2.

Block et al. discloses a system for load distribution in a computer environment that calculates a "probabilistic weight" separately for each server based on a "server's capacity and load" collected by the operating system, and divides a predetermined numerical range (0-Z) in such a manner as to correspond to each server by use of the ratio of the probabilistic weights. A pseudo-random number within the predetermined numerical range is then generated. A server is selected as a destination server if the server corresponds to a divided numerical range section to which the generated pseudo-random number belongs. This distribution process is performed as a server's own process while collaborating among the individual servers. Please see Fig. 9, Fig. 10A, Fig. 10B, and column 11, line 51 to column 14, line 40 of Block et al.

As described above, the system of Block et al. calculates a "probabilistic weight" (applied to the claimed "weight value" by the Examiner) based on a "server's capacity and load" (applied to the claimed "accumulated value" by the Examiner) so as to provide a weight to each server, followed by generating a pseudo-random number to determine a server to which the process is distributed. Block et al., as interpreted and applied by the Examiner, would disclose a "weight value" being determined based on an "accumulated value" and would, therefore, fail to

disclose “an accumulated value calculated on the basis of said weight value.” as recited in independent claims 1 and 2. (Emphasis added)

As described above, the “probabilistic weight” of Block et al. is used to select a destination server that corresponds to a divided numerical range section to which a generated pseudo-random number belongs. As such, transmitting to a server with the “smallest data set count” would be inconsistent with its function and purpose. Indeed, Block et al. explicitly consider the concept of “smallest data set count” cited from Yoshida et al. to be inferior. Please see col. 13, lines 49-64 of Block et al. The pseudo-random feature using the “probabilistic weight” in Block et al. is an improvement over this “smallest data set count” concept. It is, therefore, not obvious to one skilled in the art to combine Block et al. and Yoshida et al. in the manner proposed by the Examiner because Block et al. explicitly teaches away from such a combination.

Even assuming, arguendo, that it would be obvious to combine these features of Block et al. and Yoshida et al., a system of such a combination would only transmit either to a server with the smallest data set count, as described in the cited portions of Yoshida et al., or according to the pseudo-random “probabilistic weight” feature of Block et al. applied by the Examiner. As mentioned before, the “probabilistic weight” feature is incompatible with “smallest data set count.” As such, they are mutually exclusive features, and a combination of them would still fail to teach or suggest transmitting “to a transmission destination that has a smallest accumulated value” where the “accumulated value calculated on the basis of [a] weight value.” as recited in claims 1 and 2. (Emphasis added)

Advantageously, the claimed invention provides for computing an accumulated value as a simplified operation that may add a reciprocal of a weight value or that performs addition to the

accumulated value after the multiplication of an additional weight factor, thereby achieving a high-speed distribution process.

Applicants respectfully submit that, for the foregoing reasons, claims 1 and 2, together with claims 7-9 dependent from claim 2, are patentable over the cited prior art.

Claims 3-6 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Block et al. in view of Yoshida et al., and further in view of U.S. Patent No. 5,067,127 to Ochiai.

The Examiner relied upon Ochiai as a combining reference to specifically disclose features recited in dependent claims 3-6. Therefore, even assuming that it would be obvious to combine Ochiai with Block et al. and Yoshida et al. in the manner proposed by the Examiner, the combination would still fail to teach or suggest the features of base claim 2 discussed above. Accordingly, applicants respectfully submit that claims 3-5, which depend from claim 2, are patentable over the cited prior art for at least the same reasons as those stated above with respect to base claim 2.

Statements appearing above in respect to the disclosures in the cited references represent the present opinions of the undersigned attorney and, in the event that the Examiner disagrees with any of such opinions, it is respectfully requested that the Examiner specifically indicate those portions of the respective reference providing the basis for a contrary view.

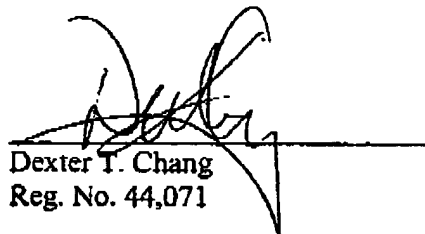
The Examiner has made of record, but not applied, two additional references. Applicants appreciate the Examiner's implicit finding that these references, whether considered alone or in combination with others, do not render the claims of the present application unpatentable.

In view of the remarks set forth above, this application is in condition for allowance which action is respectfully requested. However, if for any reason the Examiner should consider

this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,



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DTC:jc